

INTERNET
FORM NLRB-501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case Date Filed

29-CA-244378 7/1/19

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Jomar car wash (main street car wash)		b. Tel. No. (718) 461-9796
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 5734 main st NY Flushing 11355-_____	e. Employer Representative Jose Pires President	g. e-Mail
		h. Number of workers employed 38
i. Type of Establishment (factory, mine, wholesaler, etc.) Others	j. Identify principal product or service Car wash	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3, 4 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

2019 JUL -1 PM 3:01
BROOKLYN, NY 11201
NLRB-REGION 1
RECEIVED

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No. (b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-Mail

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By (b) (6), (b) (7)(C)

(signature of representative or person making charge)

(b) (6), (b) (7)(C)

Title:

(Print/type name and title or office, if any)

Tel. No.

(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-Mail

(b) (6), (b) (7)(C)

Address

(b) (6), (b) (7)(C)

06/29/2019 00:30:07

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Basis of the Charge

8(a)(3)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Write ups, Reduction working hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Write ups, reduction working hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Write ups, reduction working hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Write ups, suspension	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Write ups, reduction working hours	(b) (6), (b) (7)(C) 2019

8(a)(1)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, discussing wages, hours, or other terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Reduce working hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduce working hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduce working hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019

8(a)(1)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7)(C) 2019

8(a)(4)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) filed charges or cooperated with the NLRB.

Name of employee disciplined/retaliated	Type of discipline/retaliation	Approximate date of
---	--------------------------------	---------------------

against		discipline/retaliation
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7) 2019
(b) (6), (b) (7)(C)	Reduced worked hours	(b) (6), (b) (7) 2019

8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by threatening to retaliate against employees if they joined or supported a union.

Name of Employer's Agent/Representative who made the statement	Approximate date
(b) (6), (b) (7)(C)	(b) (6), (b) (7) 2019



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



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Jose Pires, President
Jomar car wash (main street car wash)
5734 main st
Flushing, NY 11355-_____

Re: Jomar car wash (main street car wash)
Case 29-CA-244378

Dear Mr. Pires:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney RACHEL ZWEIGHAFT whose telephone number is (718)765-6166. If this Board agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB

office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King". The signature is fluid and cursive, with the first name "Kathy" being more prominent.

KATHY DREW-KING
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
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(b) (6), (b) (7)(C)

July 5, 2019

Re: Jomar car wash (main street car wash)
Case 29-CA-244378

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on July 01, 2019 has been docketed as case number 29-CA-244378. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney RACHEL ZWEIGHAFT whose telephone number is (718)765-6166. If this Board agent is not available, you may contact Supervisory Attorney NANCY LIPIN whose telephone number is (718)765-6208.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.


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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

INTERNET
FORM NLRB-501
(2-08)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

Date Filed

29-C A-244375 7/1/19

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Jomar car wash (main street car wash)		b. Tel. No. (718) 461-9796
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 5734 main st NY Flushing 11355-_____	e. Employer Representative Jose Pires President	g. e-Mail
		h. Number of workers employed 38
i. Type of Establishment (factory, mine, wholesaler, etc.) Others	j. Identify principal product or service Car wash	

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 3, 4 of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

--See additional page--

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

Title:

4a. Address (Street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No. (b) (6), (b) (7)(C)

4c. Cell No.

4d. Fax No.

4e. e-Mail

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.

(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-Mail

(b) (6), (b) (7)(C)

By (b) (6), (b) (7)(C)
(signature of representative or person making charge)

Title: (b) (6), (b) (7)(C)
(Print/type name and title or office, if any)

Address (b) (6), (b) (7)(C)

06/28/2019 21:53:09

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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Basis of the Charge

8(a)(3)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) joined or supported a labor organization and in order to discourage union activities and/or membership.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Reduce amount of working hours	(b) (6), (b) (7)(C) 2019

8(a)(1)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, discussing wages, hours, or other terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Reduce of worked hours, write ups.	(b) (6), (b) (7)(C) 2018

8(a)(1)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) engaged in protected concerted activities by, inter alia, protesting terms and conditions of employment and in order to discourage employees from engaging in protected concerted activities.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Reduced amount of working hours. Discipline	(b) (6), (b) (7)(C) 2019

8(a)(4)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) filed charges or cooperated with the NLRB.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	Reduce worked hours	(b) (6), (b) (7)(C) 2019

8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by threatening to retaliate against employees if they joined or supported a union.

Name of Employer's Agent/Representative who made the statement	Approximate date
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C) 2019

8(a)(1)

Within the previous six-months, the Employer has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by promising better working conditions if employees did not join or support a union.

Name of Employer's Agent/Representative who made the	Approximate date
--	------------------



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NATIONAL LABOR RELATIONS BOARD

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Jose Pires, President
Jomar car wash (main street car wash)
5734 main st
Flushing, NY 11355-_____

July 5, 2019

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KATHY DREW-KING
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
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Agency Website: www.nlrb.gov
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(b) (6), (b) (7)(C)

July 5, 2019

Re: Jomar car wash (main street car wash)
Case 29-CA-244375

Dear (b) (6), (b) (7)(C)

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Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.


Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlrb.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

September 24, 2019

(b) (6), (b) (7)(C)

Nils Shilito, Esq.
Stephen D. Hans & Associates, PC
45-18 Court Square, Suite 403
Long Island City, NY 11101

Re: Jomar Car Wash (Main Street Car Wash)
Case Nos. 29-CA-244375 & 29-CA-244378

Dear (b) (6), (b) (7)(C) and Shilito:

The Region has carefully considered the charges alleging that Jomar Car Wash (Main Street Car Wash) violated the National Labor Relations Act. I have decided to dismiss those portions of the charges alleging that the Employer discriminated against employees in retaliation for filing charges or cooperating with the NLRB in violation of Section 8(a)(4) of the Act and the portion of the charge in Case No. 29-CA-244375 alleging that the Employer violated Section 8(a)(1) of the Act by promising better working conditions to (b) (6), (b) (7)(C) if (b) (6), (b) (7)(C) did not join the Union because the investigation did not find sufficient evidence to support those allegations.

As explained below, I have also decided that further proceedings on the remaining portions of the charges should be handled in accordance with the deferral policy of the National Labor Relations Board as set forth in *Collyer Insulated Wire*, 192 NLRB 837 (1971), and *United Technologies Corp.*, 268 NLRB 557 (1984). This letter explains that deferral policy, the reasons for my decision to defer further processing of the charge, and the Charging Party's right to appeal my decision.

Deferral Policy: The Board's deferral policy provides that the Board will postpone making a final determination on a charge when a grievance involving the same issue can be

processed under the grievance/arbitration provision of the applicable contract. This policy is partially based on the preference that the parties use their contractual grievance procedure to achieve a prompt, fair, and effective settlement of their disputes. Therefore, if an employer agrees to waive contractual time limits and process the related grievance through arbitration if necessary, the Board's Regional Office will defer the charge.

Decision to Defer: Based on our investigation, I am deferring further proceedings on the remaining portions of the charge in this matter to the grievance/arbitration process for the following reasons:

1. The Employer and the Union have a collective-bargaining agreement currently in effect that provides for final and binding arbitration.

2. The reduction of hours and discipline of employees (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) for engaging in Union and protected concerted activity in violation of Section 8(a)(1) and (3) of the Act and the threat to suspend employees in violation of Section 8(a)(1) of the Act as alleged in the charges are encompassed by the terms of the collective-bargaining agreement.

3. The Employer is willing to process a grievance concerning the issues in the charges and will arbitrate the grievance if necessary. The Employer has also agreed to waive any time limitations in order to ensure that the arbitrator addresses the merits of the dispute.

4. Since the issues in the charges appear to be covered by provisions of the collective-bargaining agreement, it is likely that the issues may be resolved through the grievance/arbitration procedure.

Further Processing of the Charge: As explained below, while the charge is deferred, the Regional office will monitor the processing of the grievance and, under certain circumstances, will resume processing of the charge.

Charging Party's Obligation: Under the Board's *Collyer* deferral policy, the Charging Party has an affirmative obligation to file a grievance, if a grievance has not already been filed. If the Charging Party fails either to promptly submit the grievance to the grievance/arbitration process or declines to have the grievance arbitrated if it is not resolved, I may dismiss the charge.

Union/Employer Conduct: If the Union or Employer fails to promptly process the grievance under the grievance/arbitration process; declines to arbitrate the grievance if it is not resolved; or if a conflict develops between the interests of the Union and the Charging Party, I may revoke deferral and resume processing of the charge.

Charged Party's Conduct: If the Charged Party prevents or impedes resolution of the grievance, raises a defense that the grievance is untimely filed, or refuses to arbitrate the grievance, I will revoke deferral and resume processing of the charge.

Monitoring the Dispute: Approximately every 90 days, the Regional Office will ask the parties about the status of this dispute to determine if the dispute has been resolved and if continued deferral is appropriate. However, at any time, a party may present evidence and request dismissal of the charge, continued deferral of the charge, or issuance of a complaint.

Notice to Arbitrator Form: If the grievance is submitted to an arbitrator, please sign and submit to the arbitrator the enclosed "Notice to Arbitrator" form to ensure that the Region receives a copy of an arbitration award when the arbitrator sends the award to the parties.

Review of Arbitrator's Award: If the grievance is arbitrated, the Charging Party may ask the Board to review the arbitrator's award. The request must be in writing and addressed to me. Because the parties have explicitly authorized the arbitrator to decide the statutory issue in this case, the Board's deferral standards applicable in this case are those set forth in *Babcock & Wilcox Construction Co.*, 361 NLRB No. 132 (2014), which is available on our website, www.nlr.gov. Any request for review of an arbitrator's award should analyze (1) whether the parties explicitly authorized the arbitrator to decide the statutory issue; (2) whether the arbitrator was presented with and considered the statutory issue, or was prevented from doing so by the party opposing deferral; and (3) whether Board law reasonably permits the award. The party urging deferral has the burden to prove these standards are met.

Review of Grievance Settlement: If the grievance is settled, the Charging Party may ask the Board to review the grievance settlement. The Board's deferral standards applicable to any grievance settlement in this case are also set forth in *Babcock & Wilcox Construction Co.*, 361 NLRB No. 132 (2014). Any request for review of a grievance settlement should analyze (1) whether the parties intended to settle the unfair labor practice issue; (2) whether the parties addressed the statutory issue in the settlement; and (3) whether Board law reasonably permits the grievance settlement agreement. The party urging deferral has the burden to prove these standards are met. In assessing whether to defer to the settlement, I will also consider the factors identified by the Board in *Independent Stave Co.*, 287 NLRB 740, 743 (1987).

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File documents:

- 2) Enter your NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on October 8, 2019. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 7, 2019. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

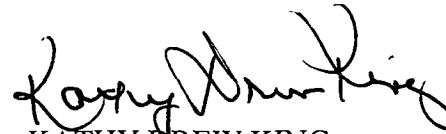
Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 8, 2019**. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 8, 2019, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an

September 24, 2019

applicable exemption such as those that protect confidential sources,
commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew King". The signature is fluid and cursive, with the first name "Kathy" being more prominent.

KATHY DREW KING
Regional Director

Enclosures

cc:

Jose Pires, President
Jomar Car Wash (Main Street Car Wash)
5734 Main St.
Flushing, NY 11355

Christopher Baluzy, Esq.
Cary Kane LLP
1350 Broadway, Suite 1400
New York, NY 10018



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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Fax: (718)330-7579

May 14, 2020

(b) (6), (b) (7)(C)

Re: Jomar Car Wash (Main Street Car Wash)
Case 29-CA-244375 and 29-CA-244378

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charges that Jomar Car Wash (Main Street Car Wash) has violated the National Labor Relations Act.

Prior Disposition: On September 24, 2019, the undersigned issued a letter deferring further proceedings on certain portions of the charges to the parties' grievance-arbitration process. Thereafter, the Region reopened the case for further investigation.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charges because there is insufficient evidence to establish a violation of the Act.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: You must file your appeal electronically or provide a written statement explaining why electronic submission is not possible or feasible (Written instructions for the NLRB's E-Filing system and the Terms and Conditions of the NLRB's E-Filing policy are available at www.nlr.gov. See [User Guide](#). A video demonstration which provides [step-by-step instructions](#) and frequently asked questions are also available at www.nlr.gov. If you require additional assistance with E-Filing, please contact E-File@NLRB.gov.

You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. If you cannot file electronically, please send the appeal and your written explanation of why you cannot file electronically to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **May 28, 2020**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than May 27, 2020. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before May 28, 2020**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after May 28, 2020, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



KATHY DREW-KING
Regional Director

Enclosure

cc: Jose Pires, President
Jomar Car Wash
5734 Main St
Flushing, NY 11355

Nils Shilito, ESQ.
STEPHEN D. HANS & ASSOCIATES,
PC
4518 Court Square, Suite 403
Long Island City, NY 11101

David Jimenez
Retail, Wholesale & Department Store
Union, UFCW
370 7th Avenue, 14th Floor
New York, NY 10001-0019

Christopher S. Baluzy, ESQ.
Cary Kane LLP
Herald Square Building
1350 Broadway, Suite 1420
New York, NY 10018

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)